

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESale PRICE
LITIGATION

MDL No. 1456
Master File No. 1:01-CV-12257-PBS
Sub-Category Case No. 1:08-CV-11200

THIS DOCUMENT RELATES TO:
*United States ex rel. Linnette Sun and Greg
Hamilton, Relators*
v.
*Baxter Hemoglobin Therapeutics and Baxter
International Inc.*

Judge Patti B. Saris

**DECLARATION OF RUCHI JAIN IN SUPPORT OF BAXTER
INTERNATIONAL INC.'S MOTION TO DISMISS RELATORS' COMPLAINT**

I, RUCHI JAIN, duly declare under penalty of perjury as follows:

1. I am an attorney at law admitted to practice in the State of New York and the District of Columbia and am an attorney in the law firm of Dickstein Shapiro LLP, counsel for Defendant Baxter International Inc. I am familiar with all of the facts and circumstances herein. I make this declaration in support of Baxter International Inc.'s Motion to Dismiss Relators' Complaint in the above-captioned action.

2. Attached hereto as Exhibit A is a true and correct copy of a list of 38 cases filed against Baxter prior to April 22, 2005.

3. Attached hereto as Exhibit B is a true and correct copy of the State of Nevada Complaint in *Nevada v. Abbott Labs., Inc., et al.*, Case No. 02-00260, Department No. 8 (2d Jud. Dist. Ct., County of Washoe, Jan. 17, 2002).

4. Attached hereto as Exhibit C is a true and correct copy of the State of Montana Complaint in *Montana ex rel. Mike McGrath, Attorney General v. Abbott Labs., Inc., et al.*, Case No. ADV-2002-2155 (1st Jud. Dist. Ct., Feb. 25, 2002).

5. Attached hereto as Exhibit D is a true and correct copy of the Nassau County Complaint in *County of Nassau v. Abbott Labs et al.*, CV 04-5126 (E.D.N.Y. complaint filed Nov. 24, 2004).

6. Attached hereto as Exhibit E is a true and correct copy of the 1984 Department of Health and Human Services Office of the Inspector General (“HHS OIG”) report *Changes to the Medicaid Prescription Drug Program Could Save Millions*.

7. Attached hereto as Exhibit F is a true and correct copy of the May 1996 HHS OIG report *Appropriateness of Medicare Prescription Drug Allowances*.

8. Attached hereto as Exhibit G is a true and correct copy of Attachment B to the February 9, 2005 Report of Independent Expert Professor Ernst R. Berndt to Judge Patti B. Saris.

9. Attached hereto as Exhibit H is a true and correct copy of the Declaration of Michael Bradley.

10. Attached hereto as Exhibit I is a true and correct copy of the December 1997 HHS OIG report *Excessive Medicare Payments for Prescription Drugs*.

11. Attached hereto as Exhibit J is a true and correct copy of a September 8, 2000 Department of Health and Human Services Health Care Financing Administration Program Memorandum to Intermediaries/Carriers, Transmittal AB-00-86, entitled “An Additional Source of Average Wholesale Price Data in Pricing Drugs and Biologicals Covered by the Medicare Program.”

12. Attached hereto as Exhibit K is a true and correct copy of a September 25, 2000 letter from Congressman Thomas Bliley, Chair of the House Commerce Committee, to Nancy-Ann Min DeParle, HCFA Administrator, including Attachments 6 and 7 to the letter.

13. Attached hereto as Exhibit L is a true and correct copy of the January 2003 General Accounting Office Report *Medicare: Payment for Blood Clotting Factor Exceeds Providers' Acquisition Cost*.

14. Attached hereto as Exhibit M is a true and correct copy of a June 10, 1996 Barron's article, *Hooked on Drugs: Why Do Insurers Pay Such Outrageous Prices for Pharmaceuticals?*

15. Attached hereto as Exhibit N is a true and correct copy of the April 2000 Marketing Research Bureau report *Survey on Hemophilia Care & Price Monitoring United States: Wave # 10*.

16. Attached hereto as Exhibit O is a true and correct copy of select news media articles from 2001 and 2002 concerning the original AWP lawsuits.

17. Attached hereto as Exhibit P is a true and correct copy of the July 2002 Marketing Research Bureau report *The Plasma Fractions Market in the United States 2001*.

18. Attached hereto as Exhibit Q is a true and correct copy of the Settlement Agreement and Release between the State of California and Baxter, among other defendants, dated December 2008.

19. Attached hereto as Exhibit R is a true and correct copy of the Settlement Agreement and Release between the State of Hawaii and Baxter, dated March 2009.

20. Attached hereto as Exhibit S is a true and correct copy of the Settlement Agreement and Release between the State of Illinois and Baxter, dated January 2009.

21. Attached hereto as Exhibit T is a true and correct copy of the Settlement Agreement and Release between the State of Nevada and Baxter, among other defendants, dated August 2008.

22. Attached hereto as Exhibit U is a true and correct copy of the First Amended Petition of the State of Texas in *Texas ex rel. Ven-A-Care of the Fla. Keys, Inc. v. Abbott Labs., Inc. et al.*, Case No. GV00461-A.

23. Attached hereto as Exhibit V is a true and correct copy of the Settlement Agreement and Release between the State of Texas and Baxter, dated June 2006.

I hereby swear that the foregoing statements are true to the best of my knowledge, information, and belief.

Dated: August 14, 2009

/s/ Ruchi Jain
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CERTIFICATE OF SERVICE

I hereby certify that I, Ruchi Jain, an attorney, electronically filed the foregoing DECLARATION OF RUCHI JAIN IN SUPPORT OF BAXTER INTERNATIONAL INC.'s MOTION TO DISMISS RELATORS' COMPLAINT with the Clerk of the Court for the District of Massachusetts using the Court's CM/ECF system on August 14, 2009. I also caused a true and correct copy of the foregoing document to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, for posting and notification to all parties. In addition, the individuals listed below were served via U.S. Mail.

/s/ Ruchi Jain

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